

David A. Eatough
Appl. No. 09/752,202

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-32 are pending in the application, of which claims 1, 11, 15, 23, and 28 are independent. Claims 1, 5, 23, and 27-29 are sought to be amended. No new matter is embraced by this amendment and its entry is respectfully requested. Based on the above amendment and the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw all outstanding rejections.

Rejection under 35 U.S.C. § 102

The Examiner, on page 2 of the Office Action, has rejected claims 1-6, 9-10, 15-18, 20, 22-25, 27-30, and 32 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,771,595 to Gilbert. Applicant respectfully traverses this rejection. Based on the remarks set forth below, Applicant respectfully requests that this rejection be reconsidered and withdrawn.

To anticipate a claim of a pending application, a single reference must disclose each and every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1397 (Fed. Cir. 1986). The exclusion of a claimed element from the single source is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984).

With respect to independent claim 1, Gilbert does not teach or suggest Applicant's invention. For example, Gilbert does not teach or suggest at least the following elements of Applicant's claim 1:

- (a) registering, in a task pool, said network related tasks;

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(b) assigning a priority value to at least a portion of said network related tasks, wherein said priority value is based at least in part on network bandwidth to be employed in order to process said network related tasks;

Unlike the present invention, which teaches a task pool, Gilbert teaches a resource pool.

Gilbert also does not teach or suggest registering network related tasks in the task pool.

Contrary to the present invention, Gilbert does not teach or suggest assigning priority values to network related tasks. Instead, Gilbert teaches assigning priority to network interface cards connected to specific networks (e.g., the engineering department network).

Thus, for at least the foregoing reasons, Applicant respectfully submits that independent claim 1, and the claims that depend therefrom (claims 2-10) are not anticipated by Gilbert. Independent claims 15, 23, and 28 include similar elements as those recited in claim 1. Therefore, claims 15, 23, and 28, and the claims that depend therefrom (claims 16-22, claims 24-27, and claims 29-32, respectively), are also not anticipated by Gilbert. Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of independent claims 1, 15, 23, and 28, and the claims that depend therefrom.

Rejection under 35 U.S.C. § 103

The Examiner, on page 6 of the Office Action, has rejected claims 7-8 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,771,595 to Gilbert in view of Applicant's Admitted Prior Art (AAPA). Applicant respectfully traverses this

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rejection. Based on the remarks set forth below, Applicant respectfully requests that this rejection be reconsidered and withdrawn.

Claims 7-8 depend from independent claim 1, which is patentable over Gilbert for at least the reasons stated above. Furthermore, AAPA does not teach or suggest the features missing from Gilbert. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of dependent claims 7 and 8.

With regards to independent claim 11, the Examiner has rejected independent claim 11 using the same rationale as in claim 1. Applicant respectfully disagrees. Gilbert does not teach or suggest "processing the one or more network tasks based on a priority ranking for each of the one or more network tasks and available bandwidth." Instead, as stated above with respect to independent claim 1, Gilbert teaches assigning priority to network interface cards connected to specific networks (e.g., the engineering department network). Furthermore, AAPA does not teach or suggest the features missing from Gilbert.

Thus, neither Gilbert nor AAPA, separately or in combination, teach or suggest Applicant's claimed invention as recited in independent claim 11. For at least the foregoing reasons, Applicant respectfully submits that independent claim 11, and the claims that depend therefrom (claims 12-14) are patentable over Gilbert and AAPA. Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of independent claim 11, and the claims that depend therefrom (claims 12-14).

The Examiner, on page 8 of the Office Action, has rejected claims 19, 21, 26, and 31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,771,595 to Gilbert in view of U.S. Patent No. 5,920,701 to Miller *et al.* (hereinafter "Miller").

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Applicant respectfully traverses this rejection. Claims 19 and 21 depend from independent claim 15, which is patentable over Gilbert for at least the reasons stated above. Furthermore, Miller does not teach or suggest the features missing from Gilbert. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of dependent claims 19 and 21.

Claim 26 depends from independent claim 23, which is patentable over Gilbert for at least the reasons stated above. Furthermore, Miller does not teach or suggest the features missing from Gilbert. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of dependent claim 26.

Claim 31 depends from independent claim 28, which is patentable over Gilbert for at least the reasons stated above. Furthermore, Miller does not teach or suggest the features missing from Gilbert. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of dependent claim 31.

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Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all currently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

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